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MEMORANDUM

To: House Committee on Rules, Calendar and Operations of the House

From: General Statutes Commission

Re: SB 847 (General Statutes Comm. Technical Corrections) (PCS)

Date: June 29, 2012

General Comments

Part I of the proposed committee substitute for this bill contains corrections of a technical nature to the General Statutes that are recommended by the General Statutes Commission. These amendments correct terminology, including names of State agencies and titles of State officials, grammar, typographical errors, redlining errors, and other obvious drafting errors, make conforming changes, update references, delete obsolete provisions, make gender neutral changes in sections that are already being amended, correct the codification of one statute, and expressly authorize the Revisor of Statutes to print drafters' comments to three acts from 2011 in which that authorization was inadvertently not included.

Specific Comments

Section 1 makes conforming amendments to **G.S. 7A-60(a1)** and **G.S. 7A-133(c)** to reflect in the codified statutes the actual authorized numbers of assistant district attorneys and magistrates.

In 2010, the General Assembly directed the Administrative Office of the Courts (AOC) to reduce positions in the Judicial Department to comply with budget reductions taken by action of the General Assembly for that Department (S.L. 2010-31, s. 15.14, as added by S.L. 2010-123, s. 6.4). The AOC was further directed to report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Revisor of Statutes on any reductions that affected statutory staffing numbers in Chapter 7A of the General Statutes. The reductions that were made did in fact affect statutory staffing numbers in G.S. 7A-60(a1) (assistant district attorneys) and G.S. 7A-133(c) (magistrates), and the AOC duly reported these reductions by letter dated June 30, 2011, from John Smith, Director of the AOC. The General Statutes Commission is informed that the reductions are permanent. The result is that the codified statutes no longer reflect the numbers actually authorized by the 2010 legislation and need to be conformed.

Subsection (a) of this section is an intent statement to make it clear that this section does not actually make the changes reflected; these have already been made.

Subsection (b) amends G.S. 7A-60(a1) to adjust the numbers of authorized assistant district attorneys to the actual numbers of authorized assistant district attorneys.

Subsection (c) amends G.S. 7A-133(c) to adjust the minimum numbers of magistrates per county to the actual numbers currently authorized.

Subsection (d) amends G.S. 7A-133(c), effective January 1, 2013, to further adjust the minimum numbers of magistrates per county to the actual numbers authorized. The General Statutes Commission is informed that the difference in dates reflects a difference in the expiration of magistrate terms.

Subsection (e) makes subsection (d) effective January 1, 2013, and the remainder of the section effective when it becomes law.

Section 2 amends **G.S. 7B-1112** to update a citation to G.S. 7B-1103(6) in subdivision (1). This citation should now be to G.S. 7B-1103(a)(6). G.S. 7B-1103 originally contained only what is now current subsection (a), without any subsection designation. It was amended by S.L. 2000-183, s. 4, to add subsection (b), at which time the "(a)" designation was inserted.

Section 3 amends **G.S. 7B-4002** (designating the Compact Administrator for the Interstate Compact for Juveniles and creating the North Carolina State Council for Interstate Juvenile Supervision to advise the Compact Administrator) to change the references to the "Secretary of the Department of Juvenile Justice" to "Secretary of Public Safety" because of last year's merger of the Departments of Crime Control and Public Safety, Juvenile Justice and Delinquency Prevention, and Corrections into the new Department of Public Safety.

Subsections 4(a) and (b) amend **G.S. 14-208.6(5)** and **G.S. 14-208.26(a)**, respectively, to add the word "former" in front of the reference to G.S. 14-27.6, which was repealed by Session Laws 1994, Extra Session, c. 14, s. 71(3).

There is no Section 5. The original Section 5 made conforming amendments relating to the name of the "Division of Adult Correction of the Department of Public Safety" in G.S. 15-196.3, 15A-821(a), 66-58(b)(15), and 148-6, but section has been deleted because these amendments were made in S.L. 2012-83.

Section 6 amends **G.S. 15A-101.1(3a)** to correct the grammar. In the phrase "locations of all person's being electronically monitored," "person's" should be "persons."

Section 7 amends **G.S. 15A-1344(d) and (e)** to make gender neutral changes. In this bill as introduced, Section 7 also made a conforming amendments relating to the name of the "Division of Adult Correction of the Department of Public Safety" in G.S. 15A-1344(c), but that amendment has been deleted because the amendment was made in S.L. 2012-83.

Section 8 repeals **G.S. 20-9(d)**, which is obsolete. G.S. 20-9(d) reads:

(d) No driver's license shall be issued to any applicant who has been previously adjudged insane or an idiot, imbecile, or feebleminded, and who has not at the time of such application been restored to competency by judicial decree or released from a hospital for the insane or feebleminded upon a certificate of the superintendent that such person is competent, nor then unless the Division is satisfied that such person is competent to operate a motor vehicle with safety to persons and property.

This provision is the only remaining place in the General Statutes that refers to a person as an "idiot," "imbecile," or "feebleminded." Both the adjudication and the restoration procedures referenced in this subsection were replaced with more modern procedures decades ago. It is the General Statutes Commission's understanding that other statutes now cover the situations this provision was intended to cover, so that no replacement for this provision is needed.

Section 9 corrects a grammatical error in **G.S. 20-141(j2)**. "[O]nly if sign are posted" should read "[O]nly if signs are posted."

Section 10 corrects a typographical error in **G.S. 20-146.2(a)(6)**. "G.S. 29-4.01(12a)" should have been "G.S. 20-4.01(12a)." The definition of "fuel cell electric vehicle" is in G.S. 20-4.01(12a); Chapter 29 of the General Statutes deals with intestate succession.

Section 11 repeals **Article 11 of Chapter 25** of the General Statutes, which has become obsolete. Article 11 contains transition provisions that were needed when Article 9 (Secured Transactions) of Chapter 25 was amended in 1975. Since that time, Article 9 has been completely revised, effective July 1, 2001, and the 1975 transition provisions are no longer relevant to anything in current Article 9. Article 11 was initially recommended to the states, together with the related Article 9 amendments, by the National Conference of Commissioners on Uniform State Laws, which is now recommending that Article 11 be repealed as obsolete. A copy of Article 11 is attached to the end of this memorandum.

Section 12 amends **G.S. 28A-2-4(a)(4)** to correct a term. In the phrase "family settlement agreements pursuant to G.S. 28A-2-10," "family settlement agreements" should be just "settlement agreements."

What G.S. 28A-2-10 authorizes the clerks to approve are "settlement agreements," subject to certain conditions. The term "family settlement agreement" is a term of art applied only to settlements of caveat proceedings before a superior court judge. The settlement agreements referred to in G.S. 28A-2-10 are outside caveat proceedings. The reference in G.S. 28A-2-4(a)(4) to the clerk approving "family settlement agreements pursuant to G.S. 28A-2-10" is therefore incorrect and also potentially confusing. The amendment made by this section removes the word "family" in G.S. 28A-2-4(a)(4) and thereby conforms its terminology to the terminology actually used in G.S. 28A-2-10.

Subsections 13(a) and (b) make related amendments to **G.S. 28A-5-1(b)** and **G.S. 28A-5-2(b)(1)**, respectively, to correct terminology related to amendments last year by Section 4 of S.L. 2011-344, which comprehensively overhauled the provisions on decedent's estates.

Subsection 13(a) amends **G.S. 28A-5-1(b)** to change references to a "motion" to the correct word, "notice." G.S. 28A-5-1(b) contains the procedure to be followed when a person named as executor in a will does nothing (that is, neither qualifies as executor nor renounces) within 30 days after the will has been admitted to probate. This person can be compelled to take some action by the clerk of court, who can issue a notice to the person to either qualify or apply for an extension, or, alternatively, by a petition filed by any other interested person for an order deeming the named executor to have renounced. In last year's amendments to G.S. 28A-5-1(b), the word "motion" was incorrectly used to refer to the notice issued by the clerk of court.

Subsection 13(b) similarly amends **G.S. 28A-5-2(b)(1)**, which contains parallel provisions dealing with the failure of a person who is entitled to apply for letters of administration but does not apply for them. In this case, not only was "motion" used to refer to the notice issued by the clerk of court, it was also used to refer to the petition that can be filed by any interested person. The amendment by Subsection 13(b) substitutes "notice or petition" for "motion" in the appropriate places.

Section 14 makes a conforming change to the catchline of **G.S. 30-30** by deleting a reference to an order for the appointment of commissioners. The text of G.S. 30-30 was amended last year by Section 7 of S.L. 2011-344 to remove the provisions for the appointment of commissioners to deal with a narrow issue in connection with an application for an addition to the usual year's allowance from a decedent's estate (all matters are now to be handled by the clerk of superior court). Last year's act failed to make a conforming amendment to the catchline.

Section 15 amends **G.S. 44A-24.2(3)** to fix incorrect references in sub-subdivisions b. and c. The references in those sub-subdivisions to "subdivision (3)" should have been to "sub-subdivision (3)a."

Section 16 recodifies **G.S. 62-36A** as G.S. 62-36.1. According to codification policy, when inserting a new G.S. section between two existing G.S. sections whose numbers are whole numbers, the new section needs to be given a decimal number (e.g., to insert a new section between G.S. 62-36 and G.S. 62-37, G.S. 62-36.1 would be correct). The use of a capital letter at the end of a G.S. section number is permissible to insert a new G.S. section between two sections with decimal numbers. The recodification in this section conforms the number of this statute to the policy.

Section 17 amends **G.S. 63A-3(b)(1)** to insert a missing "the."

Section 18 amends **G.S. 63A-24** to correct two references to "Chapter 146" of the General Statutes in the last sentence of subdivision (3). The references should have been to "Chapter 126," with the first reference being specifically to G.S. 126-5(c1)(15). Section 18 also reformats G.S. 63A-24.

G.S. 126-5(c1)(15) exempts the employees of the Global Transpark Authority from most of Chapter 126 of the General Statutes (the State Personnel Act). The current last sentence of G.S. 63A-24(3) was added last year by S.L. 2011-340 to allow the Secretary of Transportation to designate employees of the Authority as subject to the rest of Chapter 126. The addition of that sentence to G.S. 63A-24(3) was erroneous, however, because that subdivision exempts the Authority from most of Chapter **146** of the General Statutes. Chapter 146 deals with State Lands, not with employees.

In addition, the last sentence of G.S. 63A-24(3) does not fit in with the lead-in language of the section. Section 18 therefore moves that sentence to become a new subsection (b) and designates pre-2011 portion of G.S. 63A-24 as subsection (a).

Section 19 amends **G.S. 101-5(f)** to insert a missing word "of." In the fifth (next-to-last) sentence, there should have been an "of" in the phrase "from the date the adverse decision...."

There is no Section 20. The original Section 20 corrected a statutory reference in the catchline of G.S. 105-187.70. The section has been deleted because this amendment was made in S.L. 2012-79.

Subsection 21(a) amends **G.S. 115C-325(p)** to correct the list of applicable departments and divisions of the Department of Public Safety; **subsection 21(b)** repeals conflicting versions in S.L. 2012-83 and in other bills if these bills are enacted.

Subsections 22(a) and (b) amend **G.S. 120-30.9F** and **G.S. 163-304**, respectively, to complete amendments to these statutes made last year in S.L. 2011-31.

Subsection 22(a) amends **G.S. 120-30.9F(2)** to add "county" to the phrase "board of elections" and to move this phrase to follow the words "other municipal agency."

The amendment corrects an amendment made last year by Section 12 of S.L. 2011-31. That act clarified the administration of nonpartisan municipal elections by county boards of elections and, as a part of that effort, removed some obsolete references to municipal boards of elections in different places in the statutes. One of these places was in G.S. 120-30.9F(2), where the 2011 act struck the word "municipal" before "board of elections" in the phrase "municipal governing body or municipal board of elections or any other municipal agency." The result, however, reads "municipal governing body or board of elections" Under the normal rules of English grammar, a reader who was not familiar with the legislative history could reasonably think the word "municipal" was supposed to apply to both the "governing body" and the "board of elections," which would defeat the purpose of the 2011 amendment. Subsection 22(a) recasts the 2011 amendment to prevent that misinterpretation.

Subsection 22(b) amends **G.S. 163-304** to remove obsolete references to municipal election officials that were inadvertently not removed in the amendments to G.S. 163-304 by Section 25 of S.L. 2011-31.

Section 23 amends **G.S. 120-70.94(a)** in subdivision (a)(1) to update the department references in light of the merger of the Departments of Correction, Crime Control and Public Safety, and Juvenile Justice and Delinquency Prevention into the new Department of Public Safety, and in subdivision (a)(10) to add the department name after the reference to the "Division of Social Services" to make it clear that this reference is not to a division of the Department of Public Safety.

Section 24 amends **G.S. 122A-3**, the definitions section for the entirety of Chapter 122A of the General Statutes, to correct an obvious error. The word "section" at the end of the introductory language should be "Chapter."

Section 25 amends **G.S. 126-3(b)** to eliminate a problem with conjunctions. Section 5 of S.L. 2011-224 added a new subdivision (10) to G.S. 126-3(b) but did not move the conjunction "and" from its position between subdivisions (8) and (9). Section 25 permanently corrects that problem and updates the statute to the modern preferred style of ending each subdivision in a period.

Section 26 amends **G.S. 127A-110(f)** in subdivision (f)(2) to correct the term "section" to "subsection."

Section 27 amends **G.S. 130A-40.1(b)** to reinsert language that was deleted in 2011 by one act but was needed for an amendment to G.S. 130A-40.1(b) by another act.

Section 1.16 of S.L. 2011-266, effective July 1, 2011, repealed the Public Health Study Commission and made conforming amendments. These included an amendment to G.S. 130A-40.1(b) to delete the last sentence of the subsection, which contained a requirement for the Secretary of Health and Human Services to report certain local health director appointments to the eliminated Commission.

Section 2.46 of S.L. 2011-291, effective June 24, 2011 but enacted after S.L. 2011-266, also amended G.S. 130A-40.1(b). This act changed the recipient of the report required by the last sentence of G.S. 130A-40.1(b) to the new Joint Legislative Oversight Committee on Health and Human Services, apparently not realizing that the rest of that sentence was being deleted a week later.

The General Statutes Commission is informed that the Joint Legislative Oversight Committee on Health and Human Services does need this report.

Section 27 accordingly restores the language deleted by S.L. 2011-266 that is needed for the amendment by S.L. 2011-291.

Section 28 amends **G.S. 130A-309.10(e)** to insert a missing comma after the word "container."

Section 29 amends **G.S. 131E-129(a)(1b)** to remove an extraneous "and."

Section 30 amends **G.S. 135-48.27** to correct a citation. The reference to G.S. 135-48.22(d) should be a reference to G.S. 135-48.23(d).

Section 31 amends **G.S. 135-48.44(a)(2)** to correct a citation. The reference to subsection (c) should have been to subsection (d). Subsection (c) deals with coverage under the State Health Plan for surviving dependent children, and subsection (d) deals with termination of employment.

Section 32 amends **G.S. 135-48.50** to delete the word "Reserved" at subdivisions (1) and (5). The word "Reserved" was inadvertently underlined in both places in S.L. 2011-85, s. 2.10, which enacted G.S. 135-48.50. By underlining the word, the act makes it a part of the enacted statute, whereas "Reserved" used in this fashion (as a placeholder) is normally an editorial insertion by the publisher of the General Statutes. When statutory text is later added at the reserved locations, the editorial insertion does not need to be expressly deleted (since it has not been legislatively inserted). Conversely, when the word "Reserved" is actually inserted by a session law, it does later need to be expressly stricken out. There is obvious potential for confusion, which has already occurred in subdivision (1) of G.S. 135-48.50. When the current statutory text at subdivision (1) was inserted by S.L. 2011-145, s. 29.23(c), that act did not strike through the word "Reserved." The word "Reserved" is therefore technically still in the subdivision and needs to be deleted. To avoid similar confusion when text is added at subdivision (5), Section 32 also strikes out the word "Reserved" at subdivision (5). Please note that the word "Reserved" will continue to appear at subdivision (5). It will simply be the normal, editorially inserted, reserved line that does not need to be legislatively deleted.

Section 33 amends **G.S. 143-215.1(a6)** to correct a word. The phrase "when the ... work's principle function" should have read "when ... the work's principal function."

Section 34 amends **G.S. 143C-3-5** to correct three typographical errors. First, in subdivision (b)(3), "Appropriation" should be "Appropriations." Second, in subdivision (b)(4), "G.S. 147-33-72B" should be "G.S. 147-33.72B" (second hyphen should be a period). Third, in subsection (d), the reference to "Section 7(a)" of Article 5 of the North Carolina Constitution should be a reference to "Section 7(1)."

Section 35 amends **G.S. 153A-155(g)** to place "New Hanover County District U" in the correct location, with other districts and not in the list of counties.

Section 36 corrects a citation in **G.S. 159-175.10**. The definition of "communications service" is actually in subdivision (3) of G.S. 160A-340(3), not subdivision (2).

Section 37 amends **G.S. 163-258.30(a)** to correct a typographical error in two citations. G.S. 163-258.30 was formerly G.S. 163-256. It was moved to new Article 21A of Chapter 163 of the General Statutes by S.L. 2011-182 and renumbered. The 2011 act also amended the statute to replace a reference to "G.S. 163-254 and 163-255" with what should have been the equivalent citations in the new Article; however, the actual new citations inserted were to "G.S. 163-278.23 and G.S. 163-278.24." In both new citations, the "7" was a typographical error; what was intended was "G.S. 163-258.23 and G.S. 163-258.24." Because G.S. 163-258.23

and G.S. 163-258.24 were subsequently recodified as G.S. 163-258.28 and G.S. 163-258.29, however, those numbers are the correct replacements.

Section 38 amends **subsection 6(c) of S.L. 2011-96** to insert the word "initial" before the word "appointees" (to the Board of Trustees of the State Health Plan). S.L. 2011-85 and S.L. 2011-96 together made amendments to the State Health Plan and provided for a reconstituted Board of Trustees. Subsection 6(c) of S.L. 2011-96 is an uncodified provision that alters the terms of members of the reconstituted Board from the length provided for in the codified statute in order to provide for staggered terms, and so would only apply to initial appointees. The word "initial" was, however, inadvertently omitted.

Section 39 amends **subsection 19.1(g) of S.L. 2011-145** to delete from the list in that subsection certain sections in Chapter 143A that should not have been included.

Subsection 19.1(g) contains a list of sections where the Revisor of Statutes was directed to substitute "Public Safety" in place of "Crime Control and Public Safety" because of the creation of the Department of Public Safety from the former Departments of Correction, Juvenile Justice and Delinquency Provision, and Crime Control and Public Safety. The substitutions were conforming changes. The references to "Crime Control and Public Safety" in the listed sections in Chapter 143A, however, were historical references dealing with an earlier governmental reorganization. In these sections, the department name should not have been changed because the reference was to a historical happening at a time when the Department of Public Safety did not exist.

Section 40 repeals **Section 25 of S.L. 2011-284** to eliminate some "garbage language" in **G.S. 30-32**.

G.S. 30-32 was affected by two different session laws in the 2011 session. S.L. 2011-284, s. 25, effective June 24, 2011, amended the statute by changing "distributee or legatee" to "distributee, or devisee" as part of a project to update terminology and make terms more uniform in connection with takers of property by will. S.L. 2011-344, s. 7, effective January 1, 2012, eliminated the text of the statute by striking through it, but the text used did not reflect the first 2011 amendment and did not strike out ", or devisee." As a result, the phrase ", or devisee" technically still remains. Repealing S.L. 2011-284, s. 25, eliminates the problem.

Section 41 amends the introductory language of **S.L. 2011-326, s. 12(b)**, to correct an error in the identification of the statute being amended. The introductory language states that it is amending "G.S. 7B-1110.1(a)." There is, however, no G.S. 7B-1110.1. The intended statute is **G.S. 7B-1101.1**.

Section 42 corrects the prefatory language of **Section 30 of S.L. 2011-391** to use the amendatory phrasing that was actually intended. That subsection intended to replace the original text of subsection 13.22(b) of S.L. 2011-145 with new text but used an incorrect format to do so. Using "is rewritten to read:" as the amendatory phrase will cause the result intended, and Section 42 makes that change.

Section 43 expressly authorizes the printing of drafters comments to the amendments to the North Carolina Uniform Trust Code, Chapter 36C of the General Statutes, that were made by S.L. 2012-344 and S.L. 2012-339. This authorization was inadvertently omitted from those acts.

Section 44 expressly authorizes the printing of a drafters comment for new G.S. 6-21.6. Express authorization was inadvertently omitted from S.L. 2011-341, which enacted the statute. Although there is general authorization in G.S. 164-10 to publish an annotated code, it has been the custom for some years now to include express authorization for comments.

Part 2 of this bill contains additional amendments that were not part of the General Statutes Commission's recommendations.

The last section of this bill makes the bill effective when it becomes law, except where otherwise provided.

APPENDIX

Article 11 of Chapter 25 of the General Statutes. 1975 Amendatory Act – Effective Date and Transition Provisions.

§ 25-11-101. Effective date.

This act shall become effective at 12:01 A.M. on July 1, 1976. (1975, c. 862, s. 8.)

§ 25-11-101.1. Definitions.

(1) As used in this article, "old article 9" means: G.S. 25-1-105, 25-1-201(9), 25-1-201(37), 25-2-107, 25-5-116, and article 9 of chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, as they are in effect on June 30, 1976, immediately prior to the effective date of this act.

(2) As used in this article, "new article 9" means: G.S. 25-1-105, 25-1-201(9), 25-1-201(37), 25-2-107, 25-5-116, and article 9 of chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, as said provisions are enacted pursuant to this act, as of July 1, 1976, its effective date. (1975, c. 862, s. 8.)

§ 25-11-102. Preservation of old transition provisions.

The provisions of article 10 of chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, G.S. 25-10-101 through 25-10-106, thereof shall continue to apply to new article 9, and for this purpose the old article 9 and the new article 9 shall be considered one continuous statute. (1975, c. 862, s. 8.)

§ 25-11-103. Transition to new article 9; general rule.

(1) Transactions validly entered into after midnight on June 30, 1967, and before July 1, 1976, and which were subject to the provisions of old article 9 and which would be subject to this act as amended if they had been entered into after July 1, 1976, and the rights, duties and interests following from such transactions remain valid after the latter date and may be terminated, completed, consummated or enforced as required or permitted by the new article 9.

(2) Security interests arising out of such transactions which are perfected when new article 9 becomes effective shall remain perfected until they lapse as provided in new article 9, and may be continued as permitted by new article 9, except as stated in G.S. 25-11-105. (1975, c. 862, s. 8.)

§ 25-11-104. Transition provisions on change of requirement of filing.

A security interest for the perfection of which filing or the taking of possession was required under old article 9 and which attached prior to July 1, 1976, but was not perfected shall be deemed perfected on July 1, 1976, if new article 9 permits perfection without filing or authorizes filing in the office or offices where prior ineffective filing was made. (1975, c. 862, s. 8.)

§ 25-11-105. Transition provisions on change of place of filing.

(1) A financing statement or continuation statement filed prior to July 1, 1976, which shall not have lapsed prior to July 1, 1976, shall remain effective for the period provided in the old article 9, but not less than five years after the filing.

(2) With respect to any collateral acquired by the debtor subsequent to July 1, 1976, any effective financing statement or continuation statement described in this section shall apply only

if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under new article 9.

(3) The effectiveness of any financing statement or continuation statement filed prior to July 1, 1976, may be continued by a continuation statement as permitted by new article 9, except that if new article 9 requires a filing in an office where there was no previous financing statement, a new financing statement conforming to G.S. 25-11-106 shall be filed in that office.

(4) If the record of a mortgage of, or a deed of trust on, real estate would have been effective as a fixture filing of goods described therein if new article 9 had been in effect on the date of recording the mortgage or deed of trust, the mortgage or deed of trust shall be deemed effective as a fixture filing as to such goods under subsection (6) of G.S. 25-9-402 of the new article 9 on July 1, 1976. (1975, c. 862, s. 8.)

§ 25-11-106. Required refilings.

(1) If a security interest is perfected or has priority when this act takes effect as to all persons or as to certain persons without any filing or recording, and if the filing of a financing statement would be required for the perfection or priority of the security interest against those persons under new article 9, the perfection and priority rights of the security interest continue until three years after July 1, 1976. The perfection will then lapse unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(2) If a security interest is perfected when new article 9 takes effect under a law other than chapter 25 of the General Statutes, Uniform Commercial Code, which requires no further filing, refiling or recording to continue its perfection, perfection continues until and will lapse three years after new article 9 takes effect, unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing, or unless under subsection (3) of G.S. 25-9-302 the other law continues to govern filing.

(3) If a security interest is perfected by a filing, refiling or recording under a law repealed by this act which required further filing, refiling or recording to continue its perfection, perfection continues and will lapse on the date provided by the law so repealed for such further filing, refiling or recording unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(4) A financing statement may be filed within six months before the perfection of a security interest which would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. It must identify the security agreement, statement or notice (however denominated in any statute or other law repealed or modified by this act), state the office where and the date when the last filing, refiling or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, of recording and further state that the security agreement, statement or notice, however denominated, in another filing office under chapter 25, Uniform Commercial Code, or under any statute or other law repealed or modified by this act is still effective. G.S. 25-9-401 and 25-9-103 determine the proper place to file such a financing statement. Except as specified in this subsection, the provisions of G.S. 25-9-403(3) for continuation statements apply to such a financing statement. (1975, c. 862, s. 8.)

§ 25-11-107. Transition provisions as to priorities.

Except as otherwise provided in article 11, old article 9 shall apply to any questions of priority if the positions of the parties were fixed prior to July 1, 1976. In other cases questions of priority shall be determined by new article 9. (1975, c. 862, s. 8.)

§ 25-11-108. Presumption that rule of law continues unchanged.

Unless a change in law has clearly been made, the provisions of new article 9 shall be deemed declaratory of the meaning of the old article 9. (1975, c. 862, s. 8.)